Appl. No.: 10/015,926
Amdt. Dated April 26, 2005
Response to Office Action of January 31, 2005

REMARKS/ARGUMENTS

Claims 1-29 are currently pending in the present application. The Examiner has objected to claim 22 as allegedly containing an informality. Claims 1-14 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 1-19 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,829,709 to Acharya et al. in view of U.S. Patent No. 6,366,563 to Weldon et al. Applicants respectfully traverse the rejections.

As to the objection to claim 22, Applicant respectfully points out that the "20" appearing next to the term "communications" is not part of the claim language. Rather, the "20" identifies the line number in the page on which claim 22 appears. Applicant directs the Examiner to the additional line number identifiers above and below the "20." Accordingly, Applicant respectfully requests that the Examiner withdraw the objection as to claim 22.

To overcome the rejection under 35 U.S.C. § 112, Applicant has amended claim 1 to delete the term "and/" before the term "or." Applicant has also amended claim 1 to include the term "or subsequent packets in the first data flow," in connection with the tunneling step. Applicant submits that the following amendments overcome the rejection and respectfully requests withdrawal thereof.

Applicant has amended independent claims 1, 15, 22 and 29 to clarify that the communications path to destination hosts are probed to discover the network addresses of network devices having compatible transformation tunnel capabilities. These network addresses can be used to establish tunnels with the discovered network devices. Neither Acharya nor Weldon disclose or suggest the probing of a communications path to a destination host to dynamically discover the network address of a network device in the path that has compatible transformation tunnel capabilities. In contrast to the claimed subject matter, the cited references teach systems where the network address information is manually configured, or are silent as to how such network address information is obtained. For example, Acharya teaches methods and systems that validate that network traffic transformation mechanisms-- such as encryption, encapsulation, and network address translation--, have been properly configured. See '709 Patent, Col. 2:43-54. As Acharya states, the validation process validates

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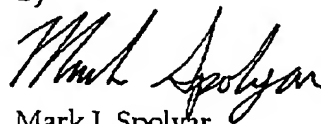Response to Office Action of January 31, 2005

that the transformation process is performing properly on the IP tunnel between two devices. '709 Patent, Col. 6:8-10. Essentially, a validation client at one network sends a sequence of messages to a validation daemon at another network participating in the IP tunnel. The validation daemon inspects the received messages to ensure that the transformation process of the IP tunnel is functioning properly. Col. 6:10-23; col. 6:33-62. Acharya, however, contains no mention of how the network devices at each end of the IP tunnel are configured with the network address information required to conduct the validation. Rather, Acharya appears to assume that each network device has been configured with the network address at the opposite side of the IP tunnel. Similarly, Weldon does not teach a system that discovers the network address of network devices having compatible transformation tunnel capabilities. Indeed, Weldon teaches that the network address information for devices to be probed are manually configured. See '563 Patent, Col. 7:44-55 ('A Probe Poll List is maintained as an ASCII text file. ... Additional probes can be configured directly through a configuration edit display. Through the menu options for this screen, the user can add, delete or import probes to the Probe Poll List."). Furthermore, the system of Weldon uses probes to determine SLA compliance and network performance statistics. Still further, the Examiner's contention that Weldon discloses detecting a data flow to a destination host and probing the path to the destination host is unsupportable.

In light of the foregoing, Applicant believes that all currently pending claims are presently in condition for allowance. Applicant respectfully requests a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicant is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Date: April 26, 2005

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Respectfully Submitted,
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